
**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

XIONGEN JIAO, an individual, QIANJI JIAO, an individual, ZHONGHUA YI, an individual, PENGFEI ZHOU, an individual, XUAMEI ZHOU, an individual,

Plaintiffs,

vs.

NINGBO XU, an individual, and LCL COMPANY, LLC, a Texas Limited Liability Company,

Defendants,

and

DONGTAI INVESTMENT GROUP, LLC, a Texas Limited Liability Company,

Nominal Defendant.

Case No.: 4:19-CV-01848

Judge: Hon. Keith P. Ellison

**RECEIVER’S EVIDENTIARY OBJECTIONS AND REPLY IN SUPPORT OF
OBJECTION TO CLAIM NO. 10 FILED BY PROPERTY CARE SERVICES LLC**

Ronald J. Sommers, Receiver (“Receiver”) for Dongtai Investment Group, LLC (“DIG”), pursuant to this Court’s Order establishing procedures for the adjudication of claims (Dkt. 193), files this Receiver’s Evidentiary Objections and Reply in Support of his Objection (Dkt. 201) (the “Objection”) to Claim No. 10 (the “Claim”), which was filed by Property Care Services LLC (“Claimant”).

I. INTRODUCTION

Claimant seeks payment in the amount of \$153,823.00 for purported deep-cleaning services at the Crown Plaza Hotel (the “Hotel”) for the period April 2, 2021 to April 25, 2021 (the “Relevant Period”). Receiver objected, demanding that Claimant provide sufficient evidence that supports that the former receiver agreed to pay such amounts, that Claimant performed work supporting the demanded amount, and that Claimant had not already been paid for the work. In Response, Claimant fails to provide sufficient evidence to support its claim. Claimant submits the Affidavit of two associates and Claimant’s owner which are riddled with hearsay and fail to establish the necessary elements of the claim. Moreover, Claimant’s affidavit is seemingly contradicted by all the other evidence that Receiver has received. Because Claimant’s evidence is insufficient and its credibility is unreliable, its claim should be denied.

II. OBJECTIONS

The Court’s Order Establishing Procedures for the Adjudication of Claims requires that any evidence supporting a Claimant’s response to an objection must be submitted in the same manner as that required under Fed. R. Civ. P. 56 practice. (Dkt. 193). As such, the evidence submitted must comply with the Federal Rules of Evidence.

The Receiver objects to the Affidavit of Faramarz Salahshou (“Salahshou Aff.”), which is Exhibit A to the Response, and Affidavit of Carlos Campos (“Campos Aff.”), which is Exhibit C to the Response.

Specifically, the Receiver objects to Paragraphs 4, 5, 6, 7, 8 9, 10, and 11 of the Salahshou Aff. as hearsay. The Receiver further objects to Paragraph 7 as improper expert testimony that is prohibited under Rule 702. Mr. Salahshou’s knowledge, skill, experience or training to offer such opinions has not been established, there is no evidence it is based on sufficient facts or data,

or that it is the product of reliable principles and methods. The Receiver further objects to Paragraph 4's statement that "Mr. Udayan . . . had the authority to manage all maintenance and repair activities for the operation of the hotel," Paragraph 8's statement that "they had an oral contract," and Paragraph 12's statement that "Carlos Campos was acting as an agent/owner of Property Care Services" as improper legal conclusions. The Receiver further objects to Paragraph 8's statement that ". . . that is why there was no written contract" as speculation.

The Receiver objects to the Campos Aff. Specifically, each of Mr. Campos' statements in the paragraph beginning "In the spring of 2021" are hearsay. The Receiver further objects to this paragraph as improper expert opinion that is prohibited by Rule 702. Mr. Campos' knowledge, skill, experience or training to offer such opinions has not been established, there is no evidence it is based on sufficient facts or data, or that it is the product of reliable principles and methods. The Receiver objects to the sentence in the final paragraph that "I am informed that the Hotel sold for significantly more than was estimated prior to the deep cleaning services provided by PCS" as hearsay.

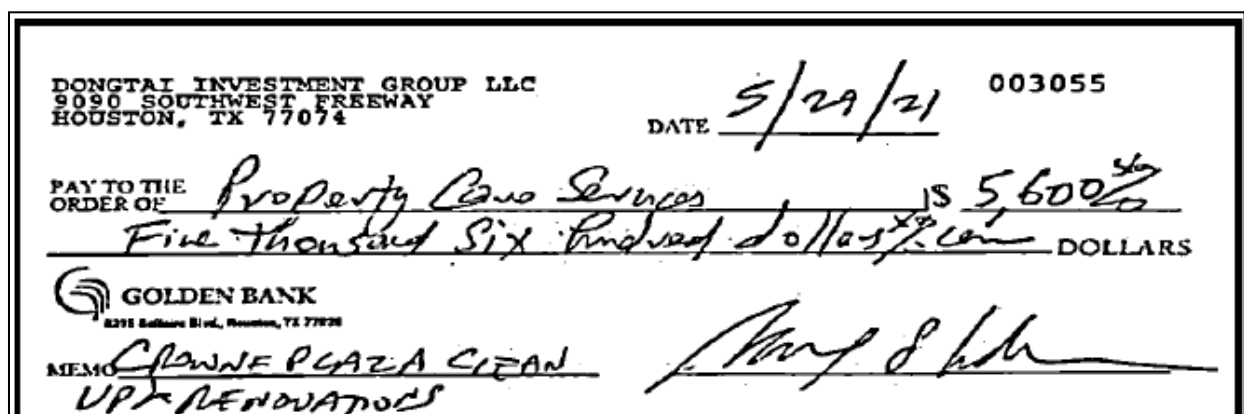
III. ARGUMENT

Notwithstanding the evidentiary defects, the Proof of Claim lacks sufficient documentation to validate the more than \$150,000 claim that Claimant has submitted. Despite Claimant's arguments to the contrary, it has provided insufficient evidence to show that there was an oral contract at an agreed amount, that the work was performed, and that the work has not been paid for. Moreover, the evidence that Claimant has provided—and that the Receiver has received from other sources—undermines Claimant's arguments.

Claimant asserts that it provided deep-cleaning services for the Hotel, which included removing collapsed drywall ceilings, chemically cleaning all carpets, and scrubbing mold off the

walls, for 243 suite rooms and all the common areas in the Hotel within a twenty-day period. Ex. C-4 to Claimant's Response (Invoice) (Dkt. 211-3). However, the Proof of Claim only substantiates that four people conducted work for the Hotel during this period for a sum total of less than \$2,000. See Exhibit C-3 to Claimant's Response (attaching four checks, totaling \$1,535.00, paid by Claimant to workers relating to the Hotel) (Dkt. 211-3). Although a vendor is entitled to make a profit, Claimant fails to present any evidence as to the other \$151,000 that it seeks. Notably, despite the Receiver's request, Claimant did not provide any bank records or other financial records showing any cash withdrawals to pay Claimant's employees for their labor in providing the deep-cleaning services. Nor did Claimant provide 1099 or W-2 forms for its employees reflecting that they had been paid additional sums.

Claimant's argument that "he received no compensation for the deep cleaning work" is simply not credible because it is contradicted by the evidence that the Receiver has received. (Dkt. 211-3 at 2). Golden Bank produced checks of payments, attached hereto as Exhibit 1 and Exhibit 2, to Claimant for cleanup work, totaling \$18,631.00:



DONGTAI INVESTMENT GROUP LLC
DBA CROWNE PLAZA HOUSTON SUITES
 9090 SOUTHWEST FREEWAY
 HOUSTON, TX 77074
 (713) 995-0123

GOLDEN BANK
 2287 HIGHWAY 8
 SUGARLAND, TX 77478

11139
 25-15507139
 103

DATE

AMOUNT
 \$ 8531 ^{xx}/₁₀₀

PAY TO THE ORDER OF:

PROPERTY CARE SERVICES
 EIGHT THOUSAND FIVE HUNDRED THIRTY ONE DOLLARS ^{xx}/₁₀₀

Crowne Plaza Plumbing Repairs

[Signature]
 AUTHORIZED SIGNATURE

Photo Safe Deposit
 Details on Back

DONGTAI INVESTMENT GROUP LLC
DBA CROWNE PLAZA HOUSTON SUITES
 9090 SOUTHWEST FREEWAY
 HOUSTON, TX 77074
 (713) 995-0123

GOLDEN BANK
 2287 HIGHWAY 8
 SUGARLAND, TX 77478

11108
 25-15507139
 103

DATE
 7/19/21

AMOUNT
 \$ 2,225 ^{xx}/₁₀₀

PAY TO THE ORDER OF:

PROPERTY CARE SERVICES
 Two thousand two hundred twenty five ^{xx}/₁₀₀

Additional Property Cleaning

[Signature]
 AUTHORIZED SIGNATURE

Photo Safe Deposit
 Details on Back

DONGTAI INVESTMENT GROUP LLC
DBA CROWNE PLAZA HOUSTON SUITES
 9090 SOUTHWEST FREEWAY
 HOUSTON, TX 77074
 (713) 995-0123

GOLDEN BANK
 2287 HIGHWAY 8
 SUGARLAND, TX 77478

11113
 25-15507139
 103

DATE
 5/25/21

AMOUNT
 \$ 2,275 ^{xx}/₁₀₀

PAY TO THE ORDER OF:


PROPERTY CARE SERVICES
 TWO THOUSAND TWO HUNDRED SEVENTY FIVE ^{xx}/₁₀₀

ELEVATOR WATER DAMAGE REPAIRS FANTX LAOR

[Signature]
 AUTHORIZED SIGNATURE

Photo Safe Deposit
 Details on Back

The \$2,225.00 payment by DIG for cleaning services is supported by an invoice from Property Care Services that differs markedly in how it looks from the one that Claimant now relies upon:



Property Care Services
 4118 Southfield Ct.
 Houston TX
 77045

INVOICE CROWNE 76982
 77859

DATE
 Jul 16, 2021

DUE
 On Receipt

BALANCE DUE
 USD \$2,225.00

BILL TO
Dongtai Investment Group/Crowne Plaza
 9090 Southwest Freeway
 Houston, TX
 77074
 281-910-5856
 michael@ameristarhospitality.com

DESCRIPTION	RATE	QTY	AMOUNT
Deep Clean and sanitize Guest Rooms for Inspections Pre Cleaning to reopen as Radisson: The following individuals were paid \$15.00 per hours for a total of 115 hours and supervisor 20 Hours @\$25.00 Adalina Hip 20 Antonia Rosales 20 Candlaria Martinez 15 Guadalupe Santana 15 Luciana Quintero 15 Jose Castillo 15 Fanny Castillo 15 C Campos 20	\$2,225.00	1	\$2,225.00
SUBTOTAL			\$2,225.00
TAX (8.25%)			\$0.00
TOTAL			\$2,225.00
BALANCE DUE			USD \$2,225.00

Dongtai00087, attached hereto as Exhibit 3.

Notably, Claimant fails to even mention this invoice—let alone explain how work that was compensated at \$15-20/hour rates now results in charges exceeding \$150,000.¹

¹ Mr. Campos' affidavit does mention a request in July 2021, from Mr. Udayan to Mr. Campos for additional cleaning work. See Campos Aff. At pp. 2 and Ex. 5. However, it appears that request may post-date the work above, as the only date reflected on the text messages is July 31, 2021. Even if the text messages do relate to the work invoiced July 16, 2021, it is hard to align the rates and amounts charged in July 2021 to what Mr. Campos seeks for April 2021. Applying the \$20 rate received as compensation for his work in July as a test of the nearly \$150,000 figure Mr. Campos seeks for the April work, Mr. Campos would have billed for nearly 7,500 hours of work over a 20-day period and only be able to account for less than \$2,000 in labor costs.

Significantly, the Claim is also undermined by the sworn declaration of the former receiver. Mr. Udayan filed a Declaration of Michael Udayan (Court Appointed Receiver) dated August 2, 2021, in support of The Receiver and Plaintiffs’ Expedited Joint Application for Approval of Dongtai’s Allocation of Insurance Proceeds Agreement (“Application for Allocation”) (Dkt. 166), attached hereto as Exhibit 4, including all exhibits, wherein Mr. Udayan testified that he kept and continually updated a spreadsheet accounting for all DIG’s liabilities as part of his business of serving as the court-appointed receiver. Mr. Udayan attached the spreadsheet as Exhibit 1-A to the Application for Allocation. (Dkt. 166-1). Mr. Udayan testified that the spreadsheet represents all liabilities of DIG to Mr. Udayan’s knowledge as of August 2, 2021. Notably, the spreadsheet indicates that Claimant had charged \$14,500 for cleaning services and had been fully paid.

Total outstanding expenses due for Dongtai Investments to be paid from Sale Proceeds			
Name of Vendor	Final Payoff on closing date	Disbursement from Sale proceeds	Disbursement from Insurance proceeds
Property Care Services	\$14,500	\$14,500	\$0

Again, Claimant fails to even address Mr. Udayan’s sworn declaration or explain how or why Mr. Udayan’s calculation of a less-than-\$15,000 charge (which had been paid) resulted in a claim for more than 10 times that amount. As such, Claimant has failed to establish the facts underlying its claim.

WHEREFORE, Receiver requests that the Court enter an order sustaining the Receiver’s objections and denying that Claimant has submitted a prima facie valid claim. Receiver also requests such other and further relief as is just.

Dated: May 15, 2023.

Respectfully Submitted,

**NATHAN SOMMERS JACOBS
A PROFESSIONAL CORPORATION**

By: /s/ Iain L. C. Kennedy

Iain L. C. Kennedy
Attorney-in-Charge
Texas Bar. No. 24068094
Federal ID No. 1066018
Julie Le
Texas Bar No. 24111324
Federal ID No. 3778242
2800 Post Oak Blvd. 61st Floor
Houston, TX 77056
(713) 960-0303 (main)
(713) 892-4800 (fax)
ikennedy@nathansommers.com
jle@nathansommer.com

**ATTORNEYS FOR RONALD J. SOMMERS,
RECIEVER**

CERTIFICATE OF SERVICE

The undersigned certifies that on May 15, 2023, a true and correct copy of the foregoing was served electronically on all parties registered to receive electronic notice of filings in this case via this Court's ECF notification system. The undersigned further certifies that the foregoing was served upon all parties listed below no later than the next day after the filing of the foregoing.

Qianju Jiao C/O Mosaic Paradigm Law Group Pc 10370 Richmond Ave., Suite 850 Houston, Texas 77042	Stephanie G. Udayan c/o Heidi A. Weelborg Weelborg Law, PLLC 2121 Sage Road, Suite 100
Jiatong Yu c/o MOSAIC Paradigm Law Group PC 10370 Richmond Ave., Suite 850 Houston, Texas 77042	Robert Caltabiano c/o THE LAW OFFICES OF M. CODY MOORE, PLLC 19901 Southwest Freeway Sugar Land, Texas 77479
Xuanmei Zhou c/o MOSAIC Paradigm Law Group PC 10370 Richmond Ave., Suite 850 Houston, Texas 77042	Melissa Udayan mel.udayan@gmail.com
Natura A-R Janice Confer 6436 Babcock Rd. San Antonio, Texas 78249	Estate of Michael Udayan c/o Stephanie Clarke Davis, Court-appointed Temporary 3rd Party Dependent Administrator 1117 FM 359, Ste. 200 Richmond, Texas 77406
Peter Hui & Hospitality Unlimited c/o The Mussalli Law Firm 24 Waterway Ave Ste 830 Spring, TX 77380-4324	Property Care Services LLC c/o T. Michael Neville 26314 Wedgewood Park Lane Cypress, Texas 77433
United Air Services c/o Noe Llamas 2815 Connorvale Rd. Houston, TX 77039	Stacey L. Barnes Kearney, McWilliams & Davis, PLLC 55 Waugh Drive, Suite 150 Houston, Texas 77007
Hewlett-Packard Financial Services Company c/o Kate R. Buck 405 N. King Street, 8th Floor Wilmington, DE 19801	

/s/ Iain L.C. Kennedy

Iain L.C. Kennedy